

APPLICANTS:
Donald and Jeanne Snyder
Melissa Gabinet

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS

REQUEST: A variance to construct a deck
within the required rear yard setback

HEARING DATE: September 14, 2005

Case No. 5497

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Donald and Jeanne Snyder, Melissa Gabinet

LOCATION: 305 Langley Court – Bright Oaks, Bel Air
Tax Map: 56 / Grid: 1E / Parcel: 510 / Lot: 142
First (1st) Election District

ZONING: R3 / Urban District/Community Development Project (R3-URD/CDP)

REQUEST: A variance, pursuant to Harford County Ordinance 6, Section 10.05 and to Section 267-23(C)(1)(a)(6) of the Harford County Code, to construct a deck 22 feet from the rear lot line (26 feet required), in the R3/CDP District.

TESTIMONY AND EVIDENCE OF RECORD:

First for the Applicant testified Steve Carmen, of American Design and Build. Mr. Carmen's company will be constructing the deck, proposed to have dimensions of 10 feet by 16 feet, to be attached to the rear of the Applicants' dwelling. Mr. Carmen indicated that the deck would encroach into the rear yard setback by approximately 4 feet, and would be approximately 22 feet from the rear property line when constructed.

The Applicant, Donald Snyder, then described the subject property as a single family, one and a half (1-1/2) story dwelling located on approximately two-tenths of an acre in the Bright Oaks subdivision. Mr. Snyder explained that his home was not centered on his property when originally constructed, nor was it built on the front yard setback line. The house is, in fact, located significantly closer to the north, or left side yard lot line, than it is to the south, or right side yard lot line. Furthermore, the home is at least 5 feet behind the front yard setback line. This unusual placement of the home accordingly reduces the available rear yard and makes his rear yard much smaller than others in his neighborhood. If the home had been built on the front yard setback line, according to Mr. Snyder, no rear yard variance would have been necessary.

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Mr. Snyder further explained that his residence sits on a cul-de-sac which, because of the resulting curving front lot line, helps create a very unusually shaped lot. A review of Attachment 3 in the Staff Report, which is the site plan of the property, amply demonstrates the fairly unique shape of this property.

The proposed deck extends 10 feet out from the back of the house. If the Applicants were required to maintain the existing setback, and only build to it, the deck would only be approximately 6 feet deep. Which, according to Mr. Snyder, would neither be compatible with other decks in the area nor be a useful size deck.

The Applicants have spoken to their neighbors and none has expressed any objection to the proposed variance.

Next for the Harford County Department of Planning and Zoning testified Dennis Sigler. Mr. Sigler stated that other neighbors in the area have similar decks to the one proposed, and those other neighbors do not need variances as their lots are sufficiently deep.

The shape of the Applicants' lot is unique, according to Mr. Sigler. The lot has a curving front lot line caused by its location on a cul-de-sac, which also creates a lot narrow in front and much wider in its rear. Furthermore, while the minimum front yard setback is 25 feet, the house is set back approximately 30 feet. If the house had been set on the front setback line, the requested rear yard variance would not be necessary.

The Staff Report indicates the topography of the front yard is generally level, although it slopes down from the front of the house to the rear and from right to left. The rear of the house contains two sets of sliding glass doors that would require either a deck or steps for access.

Mr. Sigler recommends no additional landscaping or screening, as a line of mature trees now exists across the rear property line.

No evidence or testimony was given in opposition.

APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

"Variances.

- A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*

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- (1) *By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
 - (2) *The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*
- B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*
- C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

Section 267-23C(1)(a)(6) of the Harford County Code states:

- “C. *Exceptions and modifications to minimum yard requirements.*
 - (1) *Encroachment. [Amended by Bill No. 88-17]*
 - (a) *The following structures shall be allowed to encroach into the minimum yard requirements, not to exceed the following dimensions:*
 - (6) *Unenclosed patios and decks: up to, but not to exceed twenty-five percent (25%) of the side or rear yard requirement for the district. No accessory structure shall be located within any recorded easement area.”*

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FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicants propose to construct a relatively modest, 16 foot by 10 foot deck to the rear of their residence. The deck will be similar in size, shape and appearance to others in their immediate neighborhood, and indeed throughout Harford County. The Applicants are, however, forced to request this variance as the rear of their lot is unusually shallow compared to others in the neighborhood. The deck would be only approximately 6 feet deep without the granting of the requested rear setback variance. The Applicants testified, and it is so found, that a 6 foot deep deck, while perhaps marginally usable, is not consistent with other decks in the neighborhood or area, and would be of only limited usability.

It is, accordingly, found that the Applicants suffer practical difficulty due to an unusual feature of their lot. The home is sited farther to the rear of the property than necessary and further back than are other homes in the neighborhood. If sited on the front setback line this variance would not be necessary. This, together, with the unusual, asymmetrical dimensions of the lot, combine to create a practical difficulty in that the Applicant is unable to construct a deck normal in size and shape to others in the neighborhood without the variance. The granting of the variance would have no adverse impact on any adjoining property owner or on the neighborhood, and would, in fact, tend to improve both the appearance and value of the Applicants' property.

CONCLUSION:

It is, accordingly, recommended that the requested variance be granted, subject to the Applicants obtaining all necessary permits and inspections.

Date: October 7, 2005

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on NOVEMBER 4, 2005.